JUNE 26, 2002

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SURRENDER OF THE LICENSE OF

BRIEN A. SCHLIEP, D.P.M. License No. MD01483

TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER OF
VOLUNTARY SURRENDER
OF LICENSE TO BE DEEMED
A REVOCATION

This matter was opened to the New Jersey State Board of Medical Examiners (hereinafter "the Board") upon its receipt of information from the Department of Banking and Insurance/Division of Insurance Fraud Prevention (hereinafter "the Department") which revealed that Brien A. Schliep, D.P.M. (hereinafter the "Respondent'? had entered into a consent agreement on September 18, 1997 with the Department based on his submission of false receipts to support a claim of theft and burglary from his office. The consent agreement provided for the payment of a \$5,000.00 civil fine to be paid in ten monthly installments of \$500.00. Further, the Board received information concerning Respondent's failure to renew his podiatry and controlled dangerous substance (hereinafter "CDS") registrations. The Board also received information alleging that Respondent submitted a falsified letter purporting to be from the Board's administrative office, along with a falsified podiatry and CDS license to MagnaCare Managed Health Care Program.



Respondent appeared <u>pro-se</u> and testified before a Preliminary Evaluation Committee of the Board on October 24, 2001. Respondent testified that he agreed to pay the Department \$5,000.00 to settle an insurance fraud investigation, admitting that the consent agreement was based upon falsified receipts that he had submitted to his insurance carrier to support a claim of theft and burglary in his office. He also testified that he has satisfied *the* debt in full.

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Respondentthen admitted falsifying a letter from the Board concerning his licensure status, which had expired in October, 1999, in order to have his podiatry license appear active for managed care organizations. Along with the falsified letter, Respondent also submitted altered podiatry and CDS licenses to MagnaCare Managed Health Care Program. The Board obtained copies of these documents from MagnaCare Managed Health Care Program which had called the Board office to verify Respondent's license. Respondent contended that he had sent a renewal check to the Board in 1999, but did not realize his failure to receive his new registration until February, 2001 when managed care organizations began to contact him regarding his inactive license. Furthermore, Respondent admitted to seeing patients and prescribing antibiotics after he learned that his Board license had expired. He testified that he had not prescribed any CDS medications during this time.

Respondent's conduct described **above** constitutes dishonesty, **deception**, or misrepresentation in violation of <u>N.J.S.A.</u> 45: 1-2(b), professional misconduct in violation of <u>N.J.S.A.</u> 45:1-21(e), lack of good moral character in violation of <u>N.J.S.A.</u> 45:9-6 and further demonstrates a failure to comply with **Board** regulation <u>N.J.A.C.</u> 13:35-6.16(a) for engaging in professional practice without a current **biennial** registration in violation of <u>N.J.S.A.</u> 45:1-21(h).

Respondent seeks leave to voluntarily surrender his license to practice medicine and surgery in the State of New Jersey to be deemed a revocation. The Board finding the within disposition to be adequately protective of the public health, safety and welfare, and Respondent

understanding that he is to completely refrain from the practice of medicine and surgery in the State of New Jersey,

IT IS ON THIS 26 THDAY OF JUNE , 2002,

HEREBY ORDERED AND AGREED THAT:

- 1. Respondent, Brien A. Schliep, D.P.M., is hereby granted leave and shall immediately surrender his license to practice medicine and surgery in the State of New Jersey, which surrender shall be deemed a revocation.
- Respondent shall comply with the attached directives for physicians whose surrender of licensure has been accepted by the Board, which are incorporated herein by reference.
- 3. Respondent shall return his original New Jersey license and current biennial registration to the New Jersey State Board of Medical Examiners, Post Office Sox 183, Trenton, New Jersey 08608, upon his receipt of a filed copy of this Order.
- 4. Respondent shall return his original CDS registration to the New Jersey State Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08608, upon his receipt of a filed copy of this Order.
 - Respondent shall immediately advise the DEA of this Order. 5.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

William V. Harrer, M.D., B.L.D., President

I have read and understand the within Order and agree

to be bound by its terms. Consent is hereby giveri to the Board to

enter this Order.

Brien A. Schlieg, D.P.M.

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE. HAS BEEN ACCEPTED

APPROVED BY THE BOARD ON MAY 10,2000

Ail licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided wilt be maintained separately and Wilt not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et sea. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office a?Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, a? the conclusion of the term, the licensee may contact the Board office for ?hereturn of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon hidher DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of hidher provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended 'for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which hislher eligibility to practice is represented. The licensee must also take steps to remove hidher name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.).

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee 'shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercia! Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professionat service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month periodfollowing the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or hislher attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3)months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or hidher telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of hisher medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. **Probation/Monitoring Conditions**

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

- (a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identry shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.
- (b) Monitoring of status conditions for **an** impaired practitioner **may** include, but is not limited to, practitioner cooperation in providing releases **permitting unrestricted access to** records and other information to the extent permitted **by** law from **any treatment** facility, **other treating practitioner**, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained **by** a rehabilitation program for impaired practitioners. If bodily substance monitoring has **been** ordered, the practitioner shall **fully** cooperate **by responding** to a demand for breath, **blood**, urine **or other sample in a timely** manner and providing the designated sample.

NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should *any* inquiry be **made concerning** the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bar.kany action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) & license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, **the** Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official **actions**, such as **revocation** or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a License of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or **any** other **negative** action or finding by such Federal or State agency **that** is publicly available information.

Pursuant to <u>N.J.S.A.</u>45:9-19.13, if the Board refuses to issue, suspends, revokes **or otherwise** places conditions **on** a license or permit, it is obligated **to** notify each licensed health care facility and health maintenanceorganization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of **an** order, **a summary of** the order will appear on the public agenda for the next monthly Board meeting and is forwarded to **those** members of the public **requesting a copy**. **In** addition, the same summary will appear in the minutes of that Board meeting, which are **also** made available to those requesting a copy.

Within the month following entry of an order, a summary of the **order** will appear in a Monthly **Disciplinary** Action Listing which is made available to **those members** of the public requesting a copy.

On a periodic basis the **Board disseminates** to its licensees a newsletter which includes a brief description of all of the orders entered by **the Board**.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the **Board**, the Division or the Attorney General from **disclosing any public document**.